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## DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

(Syllabi prepared by M. P. Burks, State Reporter.)

JONES' ADM'R V. JONES' ADM'R.—Decided at Richmond, February 13, 1896.—*Buchanan, J.*:

1. WILLS—*Case at bar—Emancipation—Legacy to a former slave.* A testator, by a codicil to his will, says "I intended to give my negro man Bob his freedom; but in writing the foregoing will it escaped me." He then provides that "He (Bob) may elect to go to Liberia, or to the State of Ohio, and to be removed at the charge of my estate. If he elects to go to Ohio, I wish him to be sent to the neighborhood in which the executors of the late Wm. Ragland settled his negroes. I wish my brother to make a suitable provision for him. If he should not be willing to accept his freedom, I wish my brother or my executors to dispose of him at my death in such way as to secure to him a good and humane master, and to be paid annually a part of his earnings. He shall have the privilege of accepting his freedom at any period of his life, but to remain with my brother and to labor as a slave as long as he stays in the State." In a later codicil he says this man Bob has become disabled, and gives him an annuity of \$50 during his life, and then adds, "I have given him his freedom, and whether he accepts it or not I give him this annuity in addition to the provisions in my will, to be paid to him whether free or not."

*Held*: The testator by his will emancipated his slave Bob and he is entitled to the legacy bequeathed to him by the testator. The subsequent provisions of the will by which the testator sought to create for him a condition intermediate between freedom and slavery, if he refuses to accept his freedom, were void and in no wise affected the bequest of freedom.

2. PERSONAL REPRESENTATIVES—*Trustees—Statute of Limitations.* The personal representative of a decedent is deemed a trustee exercising a continuing trust as to legatees, and though he may rely on the staleness of the demand of a legatee, or upon any presumption of payment or satisfaction arising from lapse of time, yet the statutes of limitations has no application to a suit by the legatee to recover his legacy.

RICHMOND RAILWAY & ELECTRIC CO. V. GARTHRIGHT. Decided at Richmond, February 20, 1896.—*Riely, J.*:

1. RAILROADS—*Safe. Machinery—New Inventions—Latest Improvements.* It is incumbent on a railway company whose cars are propelled by steam or electricity to provide its cars with suitable and safe machinery, and to use ordinary and reasonable care to avail itself of all new inventions and improvements known to it, which will contribute to the safety of its passengers and prevent accident to others, but it is not required to have in use the latest improvements which human skill and ingenuity have devised to prevent accidents.

2. INSTRUCTIONS—*Harmless error.* Although an erroneous instruction may have been given by the trial court, the appellate court will not reverse the judg-